

RESEARCH INVESTMENT CO., INC.

IBLA 87-145 etc.

Decided April 27, 1988

Appeals from decisions of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease applications. W-94951 etc.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: Applications: Simultaneous

Under the regulation at 43 CFR 3112.2-1(b), an applicant is required to use its own personal or business address and use of the address of any other party which is in the filing service business is prohibited. A decision rejecting an application filed by a filing service in its own name as applicant on the ground a filing service address was used will be reversed as unsupported by the regulation.

APPEARANCES: William S. Porter, Esq., Milwaukee, Wisconsin, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Research Investment Company, Inc. (RIC), has brought appeals from several decisions of the Wyoming State Office, Bureau of Land Management (BLM), rejecting its applications drawn with priority for various parcels on the lists of lands posted for simultaneous filing of oil and gas lease applications in February and April 1985 and April and December 1986. 1/ The applications were all rejected on the ground they violated the regulation at 43 CFR 3112.2-1(b) which requires the application to bear the applicant's personal or business address and prohibits use of a filing service address on an application.

1/ The docket numbers of the cases involved in these appeals and the corresponding lease application numbers are set forth below. In light of the common issue of law arising from a related factual context which these cases presented, they were consolidated by orders of the Board dated July 17, 1987, and Feb. 11, 1988.

Review of the record discloses that the applications were all filed in the name of RIC as the applicant. Each application also listed the names of various other individuals who were designated as "other parties-in-interest." On each application, the blank space marked "Filing Assistance" was filled in with the name and address of RIC.

Prior to issuance of its decision in these cases, BLM requested RIC to provide further information regarding its relationship with the other parties-in-interest disclosed on the applications. The promotional flyer which appellant supplied to BLM provides in part that: "We have developed our Group Investors Programs whereby you will be pooled (grouped) together with other individual American Investors * * * All Group Investors Lease Applications are filed with [RIC] as the Applicant and you and the additional Investors listed as Parties of Interest on the Lease Application" (Exh. A-2 to Appellant's Letter of July 17, 1986). The agreement of RIC with the individual investors listed as parties-in-interest in the applications provides in part:

[RIC] shall form Group's consisting of myself (the undersigned), fourteen (14) other Investors and [RIC] for a total of sixteen (16) members per Group.

* * * * *

The undivided interest each member shall retain in the Lease Applications, Offers, Leases which may result, Lease Sales, Lease Proceeds, Assignments, Royalty Agreements, Agreements and all other matters pertaining, shall be as follows:

[RIC] shall retain a 12% interest.

The remaining 88% interest shall be shared equally between the remaining fifteen (15) members.

(Exh. E-1 to Appellant's Letter of July 17, 1986).

The BLM decisions, although purportedly not denying the right of filing services to file applications in their own name, found improper the RIC practice of filing in its own name and on behalf of various individuals

fn. 1 (continued)

<u>Docket No.</u>	<u>Application No.</u>	<u>Parcel No.</u>	<u>Listing Month</u>
IBLA 87-145	W-94951	WY-336	4/85
IBLA 87-145	W-100749	WY-258	4/86
IBLA 87-145	W-100756	WY-265	4/86
IBLA 87-145	W-100842	WY-351	4/86
IBLA 87-442	W-95103	WY-488	4/85
IBLA 87-443	W-104236	WY-643	12/86
IBLA 88-4	W-93387	WY-403	2/85

named as parties in interest. ^{2/} BLM found this arrangement would give RIC effective control over the lease interest. BLM concluded this was an arrangement which the regulation requiring use of appellant's own address, rather than that of a filing service, was designed to prevent, citing Satellite 8211104, 89 IBLA 388 (1985).

In the statements of reasons for appeal, RIC asserts that a filing service is not prohibited from filing an application in its own name. Where this is the case, RIC contends that the filing service applicant properly uses its own address in conformity with the terms of the regulation. RIC argues that the regulation only precludes the use by an applicant of the address of some other party which is in the filing service business.

[1] The regulation cited by BLM in support of its decision to reject the applications provides in part:

The application shall include the applicant's name and personal or business address as well as the names(s) of all parties in interests [sic] to the lease application. * * * The address of any other person or entity which is in the business of providing assistance to those participating in the simultaneous oil and gas leasing system shall not be used. [Emphasis added.]

43 CFR 3112.2-1(b). In Satellite 8211104, supra, the Board noted that this requirement was implemented to "'protect clients of filing services from being defrauded by unscrupulous filing services.' 45 FR 35156, 35159 (1980)." 89 IBLA at 396. In Satellite the Board affirmed rejection of applications filed by associations where the address used was found to be the address of the filing service utilized and not that of the applicant. The issue in that case was whether the address used, which purported to be the business address of the association applicant, was actually the address of a filing service other than the association which was the applicant. The cases before us now are distinguishable from Satellite in that the applicant itself is a filing service and, thus, in complying with the regulation by using its own address it has no choice but to use a filing service address. Although BLM apparently perceived this as an improper way to subvert the regulatory requirement, the language of the regulation itself will not support rejection of a filing service's application because it lists the service's business address. As appellant points out, the regulation bars use by an applicant of the address of any other entity which constitutes a filing service. This regulation does not preclude the filing of an application by a filing service where no other regulatory requirement is violated.

^{2/} The BLM decisions acknowledged a lack of evidence that RIC made "more than one application for the same parcel; therefore, we do not allege any violation of regulations pertaining to multiple filings."

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are reversed and the cases are remanded for further adjudication.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Will A. Irwin
Administrative Judge